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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/396,429	09/15/1999	JOHN S. HENDRICKS	5815	7434

56015 7590 06/13/2006

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EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060610

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Please see the attached notice of non-responsive amendment.

DETAILED ACTION

Response to Amendment

1. The reply filed on 29 March 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): There are no claims directed to the constructively elected by original presentation for prosecution on the merits.

Newly submitted claims 1, 3-9, 14, 18, 19, 23, 24, 28-32, 34, 37, 40-43, 45-50, 52-56, and 58-64 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The originally presented invention involving the level B upgrade module (see figure 12a), however each of the newly amended introduce new limitations directed to a menu generation upgrade (see fig. 10, label 300), wherein the modem is not an upgrade (see fig. 10, label 627) and the device being upgraded is a "simple decompression box" (see figures 9a and 9b) and not a set top terminal (220) of figure 12a.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1, 3-9, 14, 18, 19, 23, 24, 28-32, 34, 37, 40-43, 45-50, 52-56, and 58-64 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since there are no pending claims, no action by the examiner can be taken.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to

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avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ayk



ANDREW Y KOENIG
AU 2623